



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Atty Knudson, David N. (for Petitioner/Administrator Laura Dozier)

**First Amended First Account and Report of Administrator, and Petition to set Aside Exempt Personal Property to Surviving Spouse**

<b>DOD: 9/18/2007</b>		<b>LAURA DOZIER</b> , surviving spouse/Administrator, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Continued from 4/27/15. Minute order states Counsel requests a 60 day continuance; if it is necessary to file a second amended petition and it is filed by 6/18/15, then no appearance is necessary on 6/22/15. As of 6/15/15 no new documents have been filed.</b>
		Account period: 2/4/2008 – 9/30/2013	
Cont. from 121113, 020314, 022414, 032414, 042114, 051914, 063014, 090314, 042715		Accounting - <b>\$650,755.95</b> Beginning POH- <b>\$650,750.00</b> Ending POH - <b>\$338,000.00</b>	1. Petition states the real property on South Cornelia was a single family residence, having been acquired by the decedent prior to his marriage (in April of 2006) to petitioner. Following the decedent's death, Petitioner continued to reside in the home with her sons, and over the next fifteen months paid the mortgage, taxes and insurance on the property. Petitioner was unable to continue to make the payments and as a result the home was foreclosed upon. Petitioner is requesting reimbursement of \$25,050.00 for paying the mortgage from her personal funds. The petitioner and her sons received a benefit from living in the estate property. It appears that the payments towards the mortgage could be considered rents for living in the estate's real property and therefore not reimbursed. - See declaration filed 10/27/14.  <b>Please see additional page</b>
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	<b>Petitioner states</b> certain assets that were decedent's separate property constitute exempt personal property eligible to be set aside to the surviving spouse pursuant to Probate Code §6510. Petitioner requests the court set aside the following personal property	
<input checked="" type="checkbox"/>	<b>Verified</b>	<ul style="list-style-type: none"> <li>2005 KTM Motorcycle</li> </ul>	
<input checked="" type="checkbox"/>	<b>Inventory</b>	Petitioner alleges prior to his death, the decedent had given the motorcycle to Petitioner's son, Chris Johnson. Although the motorcycle had been given to Chris, title remained in the name of the decedent. Petitioner requests the court set aside the motorcycle to Petitioner (and Petitioner will confirm transfer to her son, Chris). In the alternative, Petitioner requests that the court confirm the gift of the motorcycle made prior to the decedent's death.	
<input checked="" type="checkbox"/>	<b>PTC</b>		
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	W/	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input checked="" type="checkbox"/>	<b>Sp.Ntc.</b>	W/	
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input checked="" type="checkbox"/>	<b>Letters</b>	2/4/08	
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>	Petitioner states the estate is not yet in a position to close. An action was filed on a rejected creditor's claim. The estate defaulted. The estate now is reviewing the situation to see whether it is possible to file a motion to set aside the default. Petitioner believes it will take an additional 4-6 months to close the estate.	
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input checked="" type="checkbox"/>	<b>FTB Notice</b>	<b>Please see additional page</b>	
			<b>Reviewed by: KT</b>
			<b>Reviewed on: 6/15/15</b>
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 6 – Dozier</b>

**Petitioner prays for an order:**

1. That the First Amended First Account and Report of Petitioner be settled, allowed and approved as filed;
  2. That all actions of Petitioner as Administrator, as set forth in the petition, account and report be ratified, confirmed and approved;
  3. That the Court confirm reimbursement to petitioner of costs and expenses in the amount of \$17,480.00, and that petitioner is owed a balance of \$35,758.09;
  4. That the exempt personal property described in the petition be set aside to the surviving spouse or alternatively that the gift of the exempt property to Chris Johnson prior to the decedent's death be ratified, and confirmed;
  5. That the administration of the estate continue.
- 

**NEEDS/PROBLEMS/COMMENTS (cont.):**

2. Petition does not indicate whether or not the residence was marketed for sale during the 15 months Petitioner and her sons resided there after the decedent's death. Probate Code §9600 states the personal representative shall manage the estate to the extent that ordinary care and diligence require that the power be exercised. It appears that ordinary care would include marketing the property for sale rather than letting the property be foreclosed upon. Need more information regarding this property. Was there any attempt to sell the property? - See declaration filed 10/27/14

**Declaration filed on 10/27/14** states the residence on North Cornelia was appraised at \$285,000 at the date of death. However, at the time it had two mortgages against it – one for \$250,338.60 and a second mortgage in the approximate amount of \$33,400.00. Decedent died just prior to the downturn in the market. Mrs. Dozier made the payments on the loans (\$1,370.00 and \$300.00 respectively) for 15 months. Mrs. Dozier tried to communicate with the bank after they began foreclosure proceedings, but they were unwilling to speak with her as administrator – nor were they willing to consider any loan modifications. The property was foreclosed on in October 2009. Public records indicate it sold for \$90,000.00.

Attorney Knudson states he considered filing for a probate homestead on behalf of his client, but that would have required Mrs. Dozier to take the property subject to the liens against it. It was determined that there was no benefit to her in requesting a probate homestead due to the encumbrances against the property.

Attorney Knudson states the Examiner questions whether or not Mrs. Dozier's request for reimbursement should be offset by the fair rental value of the property. Mr. Knudson states he is informed that the rental property was then not in excess of \$1,000 a month. Even with an offset for rental value, the administrator has made additional payments in trying to preserve the estate asset in the amount of \$10,500 over and above the rental value, and should receive credit for that amount of expenses paid.

**Declaration filed on 10/27/14 (continued):** With respect to the creditor's claim. Mr. Knudson is in negotiations with Fresno County Federal Credit Union, and will soon be filing a motion to set aside the default.

Mrs. Dozier has been advancing funds for the payment on taxes on the Madera County real property; it is not presently listed for sale because there does not seem to be any current market. While it has been used by third parties for grazing cattle, recent thefts of cattle in the area have curtailed its use, and it is not presently producing income.

**Declaration filed on 4/23/15** states an offer of compromise of the creditor's claim has been received by Fresno County Federal Credit Union and is being considered by the Administrator; hopefully the issues will be resolved within the next 30 days. The estate's real property in Madera County is in escrow. The escrow agent confirms that the sale is due to close prior to the end of April 2015.

Wherefore is it respectfully requested that the First Account be settled.

**Note:** If the petition is granted the court will set a status hearing for the filing of the petition for final distribution on **Wednesday, September 16, 2015 at 9:00 a.m. in Dept. 303.**

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.